

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

IN RE: CERTAIN ASSETS OF § No. 6:02CV223  
ALLEN PETTY, JR., a.k.a. AL PETTY § (Judge Ward)

02 MAY 23 AM 8:32

**JOINT MOTION FOR THE EXTENSION OF  
PRE-INDICTMENT TEMPORARY RESTRAINING ORDER**

The United States of America, by and through its undersigned counsel, and ALLEN PETTY, JR., a.k.a. AL PETTY (Petty), through counsel, jointly move this Honorable Court for extension of the Temporary Restraining Order ("TRO") previously entered by the Court pursuant to 21 U.S.C. §853(e)(2), as incorporated by 18 U.S.C. §982(b)(1).

I.

On May 20, 2002, the government sought temporary restraint of certain assets belonging to or under the control of Petty, or belonging to or under the control of entities related to Petty or under his control, until an investigation can be completed and forfeiture can be commenced against the properties. The United States requested the restraining order pursuant to 18 U.S.C. §982(b)(1), which incorporates the provisions of 21 U.S.C. §853(e)(2), with respect to property that is potentially subject to forfeiture pursuant to 18 U.S.C. §982(a)(2)(A) and (8). The Court granted the motion, and the TRO was entered on May 20, 2002. The order entering the TRO sets the matter for hearing on May 28, 2002.

The Government immediately sought to serve Petty as well as all parties and entities affected by the TRO. Petty's counsel of record, Robert W. Lee, was provided with a copy of the TRO on May 20, 2002, and accepted formal service on behalf of his client on May 22, 2002. Having been served, Petty is entitled to a hearing on the matter within the ten-day period before the TRO expires on May 30, 2002, unless he consents to an extension.



On May 20, 2002, Petty's counsel of record advised that he would soon be joined by co-counsel from Houston. He also advised that co-counsel had an unavoidable conflict on May 28, 2002, the date on which the hearing is scheduled. Counsel for the government advised that she would not oppose an extension of the TRO, but requested that it continue until at least June 13, 2002, because of conflicting trial and grand jury settings. Counsel agreed to file this joint motion to extend the TRO.

On May 22, 2002, Richard Haynes and Olney G. Wallis filed a notice of appearance as co-counsel for Petty.

## II.

The procedural rules applicable to the TRO in this case specifically provide for agreed extension of the TRO in the following section:

Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

21 U.S.C. §853(e)(2).

As the restrained party, Petty is entitled to a hearing. The government is prepared to proceed with the hearing on the date it is currently scheduled. However, the government does not oppose extension of the TRO because of the conflict noted by Petty' counsel so long as the hearing is not scheduled before June 13, 2002.

As a condition of this motion, neither party requests any modification to any of the terms of the existing TRO at this time. The United States continues to rely on the motion for TRO and attached affidavit in support of probable cause and for the proposition that it may suffer

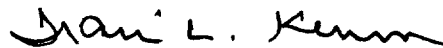
irreparable harm if the restraining order is not extended as requested, in that there remains a substantial probability that Petty or his agents may sell, alienate, encumber, transfer or otherwise place or attempt to place certain interests, assets and property beyond forfeitable condition, thereby frustrating the ends of public justice. This is particularly true because of the fungible nature of the assets at issue, which could easily be dissipated by further financial transactions or by electronic transfer. Likewise, by requesting this extension, Petty does not waive his right to challenge the TRO or a motion to convert it to a preliminary injunction. The parties simply seek a brief extension of the status quo.

### III.

For the foregoing reasons, the government and Petty join to respectfully request the extension of the previously issued temporary restraining order until a date not before June 13, 2002, pending further investigation and negotiations, at which time the United States will apply to the Court to convert the TRO to a Preliminary Injunction pursuant to 21 U.S.C. § 853(e)(2), as incorporated by 18 U.S.C. § 982(b)(1), on such terms as may be as appropriate.

Respectfully submitted,

MATTHEW D. ORWIG  
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FOR ALLEN PETTY, JR.:

A handwritten signature in black ink, appearing to read "Robert W. Lee", is written over a horizontal line.

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